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IN THE CIRCUIT COURT
FOR THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

EPA Region 5 Records Ctr.



315980

PEOPLE OF THE STATE OF ILLINOIS,)
)
Plaintiff,)
)
vs.) 80-CH-
)
WASTEX RESEARCH, INC., an Illinois)
corporation, NORMA CHASE, individually)
and as President of WASTEX RESEARCH,)
INC., JACK CHASE, and SOUTHWEST)
REGIONAL PORT DISTRICT, a municipal)
corporation,)
)
Defendants.)

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OCT 09 1980

E.P.A. — D.L.P.C.
STATE OF ILLINOIS

COMPLAINT FOR INJUNCTION
AND OTHER RELIEF

NOW COMES Plaintiff, PEOPLE OF THE STATE OF ILLINOIS,
by TYRONE C. FAHNER, Attorney General of the State of
Illinois, and complains of WASTEX RESEARCH, INC., and
Illinois corporation, NORMA CHASE, individually and as
President of WASTEX RESEARCH, INC., JACK CHASE, and SOUTHWEST
REGIONAL PORT DISTRICT, a municipal corporation, as follows:

COUNT I

DEFENDANTS ARE OPERATING OR ALLOWING TO OPERATE
A HAZARDOUS WASTE OPEN DUMP

1. This Count is brought by Tyrone C. Fahner,
Attorney General of the State of Illinois, on his own
motion, pursuant to the terms and provisions of Section
42 of the Environmental Protection Act (hereinafter the
"Act"), Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1042,
and at the request of the Illinois Environmental Protection
Agency (hereinafter the "Agency").

2. The Defendant, WASTEX RESEARCH, INC. (hereinafter
"WASTEX"), is, and at all times pertinent to this Complaint
has been, a corporation organized under the laws of the
State of Illinois.

3. WASTEX is, and at all times pertinent to this
Complaint has been qualified to do business and has been

doing business in the State of Illinois.

4. The Defendant, NORMA CHASE, since at least July 10, 1980 has been the President of Wastex.

5. The Defendant, JACK CHASE, since at least April 7, 1980 has been an employee of WASTEX and has managed the facility described below in Paragraph 7.

6. The SOUTHWEST REGIONAL PORT DISTRICT (hereinafter "DISTRICT") is a municipal corporation created by the Illinois General Assembly. Ill. Rev. Stat., 1979, ch. 19, par. 451 et seq.

7. Since at least April 7, 1980 the DISTRICT has owned and WASTEX has maintained control over part of the property which was formerly used by Obear-Nester Glass, located south of East Broadway Street between 19th and 21st streets in East St. Louis, St. Clair County, Illinois (hereafter referred to as the "facility").

8. The facility covers approximately 12 acres and consists of, among other things, several buildings, a 410,000 gallon storage tank and smaller storage tanks.

9. Since at least April 7, 1980 the Defendants, WASTEX, NORMA CHASE and JACK CHASE, have caused and the Defendant DISTRICT has allowed 55 gallon drums containing hazardous waste, including among other things, toluene, xylene, methyl ethyl ketone, methyl isobutyl ketone, ethyl acetate, methanol, chloroform, acetone, methylene chloride, butyl alcohol, and paint sludges, to be brought to the facility.

10. As of the filing of this Complaint the Defendants, WASTEX, NORMA CHASE and JACK CHASE, have caused and Defendant DISTRICT has allowed approximately 10,000 of the drums described above in Paragraph 9 to be brought to the facility.

11. Since at least April 7, 1980 the Defendants, WASTEX, NORMA CHASE and JACK CHASE, have caused and Defendant DISTRICT has allowed tanker trucks containing, among other things, the hazardous wastes set forth in Paragraph 9 to bring an unknown amount of these chemicals to the facility.

12. Between August 24, 1980 and the filing of this Complaint the Defendants, WASTEX, NORMA CHASE

and JACK CHASE, have caused and Defendant DISTRICT has allowed the tanker trucks described in Paragraph 11 to dump said chemicals into piles of sawdust on the ground, sewers, the basements of buildings and on the ground at the facility.

13. Between August 24, 1980 and the filing of this Complaint the Defendants, WASTEX, NORMA CHASE and JACK CHASE, have caused and Defendant DISTRICT has allowed the 55 gallon drums described in Paragraph 9 to be broken open and their contents allowed to run out on the ground.

14. Between August 24, 1980 and the filing of this Complaint, some of the 55 gallon drums at the facility have leaked hazardous wastes onto the ground and into the sewers at the facility.

15. By the conduct described in Paragraphs 12, 13 and 14 the Defendants, WASTEX, NORMA CHASE and JACK CHASE, are causing and Defendant DISTRICT is allowing the disposal of said hazardous wastes at the facility by allowing it to be absorbed in the ground or to enter the sewers at the facility.

16. Section 21 of the Act provides in pertinent parts:

No person shall:

(a) Cause or allow the open dumping of any refuse;

(d) Conduct any refuse-collection or refuse-disposal operations, except for refuse generated by the operator's own activities, without a permit granted by the Agency . . . The above exception shall not apply to any hazardous waste, . . .

Ill. Rev. Stat., 1979, ch. 111 1/2, pars. 1021(a) and (d).

17. Section 3 of the Act contains the following pertinent definitions:

e. "DISPOSAL" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water so that such waste or hazardous waste

or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

- g. "HAZARDOUS WASTE" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Agency guidelines consistent with the requirements of this Act and Board regulations. Hazardous waste does not include municipal waste.

- o. "OPEN DUMPING" means the consolidation of refuse from one or more sources at a central disposal site that does not fulfill the requirements of a sanitary landfill.

- s. "REFUSE" means waste.

- w. "SANITARY LANDFILL" means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, and regulations thereunder and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day's operation, or by such other methods and intervals as the Board may provide by regulation.

- ff. "WASTE" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved

materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Clean Water Act or radioactive materials discarded in accordance with the provisions of "An Act to authorize the Director of Public Health to purchase, lease, accept or acquire suitable sites for the concentration and storage of radioactive wastes, to provide for supervision of the operation of such sites and to authorize the Department of Public Health to prepare and to enforce regulations pertaining to the use and operation of such sites" approved August 16, 1963, as now or hereafter amended, and as authorized by regulations promulgated pursuant to the "Radiation Protection Act", approved July 17, 1959, as now or hereafter amended or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto.

Ill. Rev. Stat., 1979, ch. 111 1/2, pars. 1003(e),(g),(o), (s),(w) and (ff).

18. Rule 202(a) of the Pollution Control Board's Rules and Regulations, Chapter 7: Solid Waste, (hereinafter "Chapter 7") provides:

(a) New Solid Waste Management Sites.

Subject to such exemption as expressly provided in Section 21(e) of the Environmental Protection Act as to the requirement of obtaining a permit, no person shall cause or allow the use or operation of any solid waste management site for which a Development Permit is required under Rule 201 without an Operating Permit issued by the Agency, except for such testing operations as may be authorized by the Development Permit.

19. Rule 104(u) of Chapter 7 defines solid waste management as "the process of storage, processing, or disposal of solid wastes, not including hauling or transport."

20. A development permit would be required to develop a solid waste management site at the facility and Defendants, WASTEX and Norma Chase, were issued a permit to develop a solid waste management site by the Agency on July 10, 1980.

21. None of the Defendants have ever been issued a permit by the Agency to conduct a refuse disposal operation.

or operate a solid waste management site at the facility.

22. By the above conduct the Defendants, DISTRICT, WASTEX, NORMA CHASE and JACK CHASE have violated Section 21(a) of the Act, Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1021(a) and Defendants, WASTEX, NORMA CHASE and JACK CHASE have violated Section 21(d) of the Act, Ill. Rev. Stat., ch. 111 1/2, par. 1021(d) and Rule 202(a) of Chapter 7.

23. These violations of the Defendants, DISTRICT, WASTEX, NORMA CHASE and JACK CHASE, will continue in the future unless the Defendants are ordered to cease and desist from such conduct by this Court.

24. The Defendants' violation of a statute of the State of Illinois per se will cause irreparable injury to the Plaintiff.

25. The Plaintiff's remedy at law is per se inadequate where, such as in the instant case, a statute expressly authorizes an injunction to enforce the provisions of said statute.

26. The Plaintiff has a clear and lawful right created by statute of the State of Illinois for which it seeks protection.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court grant the following relief:

A. Issue a permanent injunction enjoining the Defendants, DISTRICT, WASTEX, NORMA CHASE and JACK CHASE, from causing or allowing open dumping and from conducting or allowing the conducting of a refuse disposal operation or solid waste management site by depositing hazardous wastes into piles of sawdust on the ground, sewers, the basements of buildings and on the ground at the facility;

B. Issue a permanent injunction directing the Defendants, DISTRICT, WASTEX, NORMA CHASE and JACK CHASE to develop and submit to the Plaintiff within fifteen days of entry of said injunction order a plan and timetable for the safe removal of sawdust, soil, water (including

waters in sewers) and other material at the facility that has been contaminated with said hazardous wastes and for the disposal of this material at an approved and permitted location, said plan to be approved by both the Illinois Environmental Protection Agency and the Office of the Illinois Attorney General;

C. Issue a permanent injunction prohibiting all Defendants and their agents from removing or causing others to remove any of the hazardous waste from the facility until the Court approves the plan requested in Paragraph B above;

D. Enter an order assessing a penalty against each of the Defendants, WASTEX, NORMA CHASE and JACK CHASE, in the amount of up to Ten Thousand Dollars (\$10,000.00) for the violations alleged in this Count and assess a further penalty against said Defendants in the amount of up to One Thousand Dollars (\$1,000.00) for each day on which said violation shall have continued;

E. Enter an order taxing or assessing all costs of this proceeding against the Defendants, such costs to include, but not be limited to, the reasonable and necessary expenses of any expert witness called to testify upon behalf of the Plaintiff; and

F. Grant to the Plaintiff such other and further relief as this Court may deem appropriate under the circumstances.

COUNT II

DEFENDANTS ARE CREATING A THREAT OF WATER POLLUTION AND A WATER POLLUTION HAZARD

27-41. The Plaintiff realleges and incorporates by reference herein Paragraphs 1 through 15 of Count I as Paragraphs 27 through 41 of this Count II.

42. The actions of the Defendants, DISTRICT, WASTEX, NORMA CHASE and JACK CHASE, described above in this Count II will permit the vertical and lateral migration of said hazardous wastes into the ground water and sewers.

43. The ground water and sewers referred to in

Paragraph 42 are "waters" of the State within the meaning of Section 3(ii) of the Act. Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1003(ii).

44. Said hazardous wastes are "contaminants" within the definition of that term found in Section 3(d) of the Act. Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1003(d).

45. The vertical and lateral migration of said hazardous wastes into the waters of the State as a result of the actions of the Defendants, threatens to create a nuisance and render such waters harmful or detrimental or injurious to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

46. Section 3(hh) of the Act defines Water Pollution as:

such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1003(hh).

47. Section 12 of the Act provides in pertinent part:

No person shall:

(a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act;

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution

hazard;

Ill. Rev. Stat., 1979, ch. 111 1/2, pars. 1012(a) and (d).

48. By the above conduct the Defendants, DISTRICT, WASTEX, NORMA CHASE and JACK CHASE, have threatened to cause water pollution in violation of Section 12(a) of the Act, Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1012(a) and have created a water pollution hazard in violation of Section 12(d), Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1012(d).

49-52. The Plaintiff realleges and incorporates by reference herein Paragraphs 23 through 26 of Count I as Paragraphs 49 through 52 of this Count II.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court grant the following relief:

A. Issue a permanent injunction enjoining the Defendants, DISTRICT, WASTEX, NORMA CHASE and JACK CHASE, and their agents from transporting or causing or allowing others to transport any additional hazardous wastes in any form whatsoever to the facility;

B. Issue a permanent injunction directing the Defendants, DISTRICT, WASTEX, NORMA CHASE and JACK CHASE to develop and submit to the Plaintiff within 15 days of entry of said injunction order a plan and timetable for the safe removal and permanent disposal of all the hazardous wastes from the facility, together with any and all contaminated soil and water at the facility, said plan to be approved by both the Illinois Environmental Protection Agency and the Office of the Attorney General;

C. Issue a permanent injunction prohibiting all Defendants and their agents from removing or causing others to remove any of the hazardous wastes from the facility until the Court approves of the plan requested in Paragraph B above;

D. Enter an order assessing a penalty against each of the Defendants, WASTEX, NORMA CHASE and JACK CHASE, in the amount of up to Ten Thousand Dollars (\$10,000.00)

for the violations alleged in this Count and assess a further penalty against said Defendants in the amount of up to One Thousand Dollars (\$1,000.00) for each day on which said violation shall have continued;

E. Enter an order taxing or assessing all costs of this proceeding against the Defendants, such costs to include, but not be limited to, the reasonable and necessary expenses of any expert witness called to testify upon behalf of the Plaintiff; and

F. Grant to the Plaintiff such other and further relief as this Court may deem appropriate under the circumstances.

COUNT III

DEFENDANTS ARE CREATING A THREAT OF AIR POLLUTION

53-67. The Plaintiff realleges and incorporates by reference herein Paragraphs 1 through 15 of Count I as Paragraphs 53 through 67 of this Count III.

68. From August 24, 1980 until the filing of this Complaint 55 gallon drums containing said hazardous waste have been stacked in levels higher than three and others have been stored without lids.

69. Said hazardous wastes which have been brought to the facility are flammable with some having flash points as low as 0°F.

70. The leakage and dumping of some of said hazardous wastes has allowed these wastes to commingle and interact.

71. The operation of the facility by Defendants, WASTEX, NORMA CHASE and JACK CHASE, and allowed by the DISTRICT described above threatens the discharge of toxic and noxious emissions of contaminants into the atmosphere as a result of fire or chemical interaction from the hazardous wastes existing on and in the ground, and sawdust piles, in the sewers and being stored at the facility.

72. The discharge into the atmosphere of contaminants described in Paragraph 71 would be of sufficient quantity

and of such characteristics and duration to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property by causing citizens and businesses residing near the facility to cease and avoid outdoor activity, leave their homes and property and generally attempt to avoid or reduce their exposure to the aforesaid emissions.

73. Section 3(b) of the Act defines Air Pollution as:

the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1003(b).

74. Section 9(a) of the Act provides:

No person shall:

(a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act;

Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1009(a).

75. By the above described conduct the Defendants, WASTEX, NORMA CHASE and JACK CHASE, have violated Section 9(a) of the Act, Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1009(a) by threatening to cause air pollution and Defendant DISTRICT has violated Section 9(a) of the Act by allowing the threat of air pollution.

76-79. The Plaintiff realleges and incorporates by reference herein Paragraphs 23 through 26 as Paragraphs 76 through 79 of this Count III.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court grant the following relief:

A.. Issue a permanent injunction enjoining the Defendants, DISTRICT, WASTEX, NORMA CHASE and JACK CHASE,

from transporting or causing or allowing others to transport any additional hazardous wastes in any form whatsoever to the facility;

B. Issue a permanent injunction directing the Defendants, DISTRICT, WASTEX, NORMA CHASE and JACK CHASE to develop and submit to the Plaintiff within 15 days of entry of said injunction order, a plan and timetable for the safe removal and permanent disposal of all the hazardous wastes from the facility, together with any and all contaminated soil and water at the facility, said plan to be approved by both the Illinois Environmental Protection Agency and the Office of the Attorney General;

C. Issue a permanent injunction prohibiting all Defendants and their agents from removing or causing others to remove any of the hazardous wastes from the facility until the Court approves of the plan requested in Paragraph B above and then requires compliance with said plan;

D. Enter an order assessing a penalty against each of the Defendants, WASTEX, NORMA CHASE and JACK CHASE, in the amount of up to Ten Thousand Dollars (\$10,000.00) for the violations alleged in this Count and assess a further penalty against said Defendants in the amount of up to One Thousand Dollars (\$1,000.00) for each day on which said violation shall have continued;

E. Enter an order taxing or assessing all costs of this proceeding against the Defendants, such costs to include, but not be limited to, the reasonable and necessary expenses of any expert witness called to testify upon behalf of the Plaintiff; and

F. Grant to the Plaintiff such other and further relief as this Court may deem appropriate under the circumstances.

COUNT IV

DEFENDANTS HAVE OPERATED A
RECYCLING FACILITY WITHOUT A PERMIT

80-87. The Plaintiff realleges and incorporates by reference herein Paragraphs 1 through 8 of Count I as Paragraphs 80 through 87 of this Count IV.

88. Since on or about April 24, 1980 and continuing up until the filing of this Complaint the Defendants, WASTEX, NORMA CHASE and JACK CHASE, have conducted a solvent recycling operation at the facility, in that these Defendants have accepted paint solvents and other volatile organic materials, allowed the solids and heavier materials to settle in the container in which the material was stored and then drained off the top material and sold it as a fuel.

89. On July 10, 1980 WASTEX and NORMA CHASE were issued a permit by the Agency to develop a solid waste management site at the facility and on July 11, 1980 WASTEX and NORMA CHASE were issued a permit by the Agency to store special wastes inside the buildings at the facility.

90. At no time have any of the Defendants, WASTEX, NORMA CHASE, and JACK CHASE, ever had a permit issued by the Illinois Environmental Protection Agency to conduct an operation as described in Paragraph 88.

91. Section 9(b) of the Act provides in pertinent part:

* * * operate any equipment, facility,
vehicle, vessel, or aircraft capable of
causing or contributing to air pollution
* * * of any type designated by Board
regulations, without a permit granted
by the Agency, * * *

Ill. Rev. Stat., 1979, ch. III 1/2, par. 1009(b)

92. Rule 205 of the Pollution Control Board's Rules and Regulations, Chapter 2: Air Pollution (hereinafter "Chapter 2") provides for organic material emission standards and limitations.

93. The operation described above in Paragraph 88 is capable of causing or contributing to air pollution violations of

Rule 205 of Chapter 2 since organic emissions will be released as a result of such operation.

94. By conducting the operation described in Paragraph 88 without an operating permit the Defendants, WASTEX, NORMA CHASE, and JACK CHASE have violated Section 9(b) of the Act, Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1009(b).

95-98. The Plaintiff realleges and incorporates by reference herein Paragraphs 23 through 26 of Count I as Paragraphs 95-98 of this Count IV.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court grant the following relief:

A. Issue a permanent injunction enjoining the Defendants, WASTEX, NORMA CHASE, JACK CHASE and their agents from conducting any operation at the facility for which an operating permit must be issued by the Illinois Environmental Protection Agency until such time as an operating permit is issued;

B. Enter an order assessing a penalty against each of the Defendants, WASTEX, NORMA CHASE, and JACK CHASE, in the amount of up to Ten Thousand Dollars (\$10,000) for the violations alleged in this Count and assess a further penalty against said Defendants in the amount of up to One Thousand Dollars (\$1,000) for each day on which said violation shall have continued;

C. Enter an order taxing or assessing all costs of this proceeding against the Defendants, such costs to include, but not be limited to, the reasonable and necessary expenses of any expert witness called to testify upon behalf of the Plaintiff; and

D. Grant to the Plaintiff such other and further relief as this Court may deem appropriate under the circumstances.

COUNT V

DEFENDANTS HAVE CAUSED AND
ARE CAUSING A PUBLIC NUISANCE

99. This Count V is brought by Tyrone C. Fahner, Attorney General of the State of Illinois, pursuant to his common law

power and duty to maintain actions for the abatement of public nuisances.

100-120. The Plaintiff realleges and incorporates by reference herein Paragraphs 2 through 15 of Count I, 42 and 45 of Count II and 68 through 72 of Count III as Paragraphs 100 through 120 of this Count V.

121. The public nuisance set forth above, in the absence of an order of this Court granting the relief prayed for herein, will continue for each day the Defendants are allowed to maintain and operate the facility in the above-described manner.

122. The maintenance of the hazardous wastes at the facility and the operation of the facility in the manner described above will cause Plaintiff irreparable injury for which there is no adequate remedy at law, for once said hazardous wastes enter the waters and outside atmosphere of Illinois, substantial and irreversible damage will occur to the citizens and the environment of St. Clair affected by such pollution.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court grant the following relief:

A. Issue a permanent injunction directing the Defendants, DISTRICT, WASTEX, NORMA CHASE and JACK CHASE and their agents to cease and desist all operations including, but not limited to storage, disposal and recycling, at the facility and to remove all materials placed there, together with any soil or water already contaminated;

B. Issue a permanent injunction directing the Defendants, DISTRICT, WASTEX, NORMA CHASE and JACK CHASE to develop and submit to the Plaintiff within 15 days of entry of said injunction order a plan and timetable for the safe removal and permanent disposal of all the hazardous wastes from the facility, together with any and all contaminated soil and water at the facility, said plan to be approved by both the Illinois Environmental Protection Agency and the Office of the Attorney General;

C. Issue a permanent injunction prohibiting all Defendants and their agents from removing or causing others to remove any of the hazardous wastes from the facility until the Court approves of the plan requested in Paragraph B above and then requires compliance with said plan;

D. Enter an order taxing or assessing all costs of this proceeding against the Defendants, such costs to include, but not limited to, the reasonable and necessary expenses of any expert witness called to testify upon behalf of the Plaintiff; and

E. Grant to the Plaintiff such other and further relief as this Court may deem appropriate under the circumstances.

COUNT VI

DEFENDANTS HAVE CAUSED OR THREATEN TO CAUSE AIR, WATER AND LAND POLLUTION

123. This Count is brought by Tyrone C. Fahner, Attorney General of the State of Illinois, pursuant to the terms and provisions of "An Act in Relation to the Prevention and Abatement of Air, Land and Water Pollution," Ill. Rev. Stat., 1979, ch. 14, pars. 11 and 12, and under the Constitutional power and authority of the Attorney General to enforce the laws of the State of Illinois and to protect its citizens and inhabitants against violations of the laws of this State.

124-163. The Plaintiff realleges and incorporates of reference herein Paragraphs 2 through 26 of Count I, 42 through 48 of Count II, and 68 through 75 of Count III as Paragraphs 124 through 163 of this Count VI.

164. Said violations of State laws, in the absence of an order of this Court granting the relief prayed for herein, will continue for each day the Defendants are allowed to maintain and operate the facility in the above-described manner.

165. The maintenance of the hazardous wastes at the facility and the operation of the facility in the manner de-

scribed above will cause Plaintiff irreparable injury for which there is no adequate remedy at law, for once said hazardous wastes enter the waters and outside atmosphere of Illinois, substantial and irreversible damage will occur to the citizens and the environment of St. Clair affected by such pollution.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court grant the following relief:

A. Issue a permanent injunction directing the Defendants, DISTRICT, WASTEX, NORMA CHASE and JACK CHASE and their agents to cease and desist all operations including, but not limited to storage, disposal and recycling, at the facility and to remove all materials placed there, together with any soil or water already contaminated;

B. Issue a permanent injunction directing the Defendants, DISTRICT, WASTEX, NORMA CHASE and JACK CHASE to develop and submit to the Plaintiff within 15 days of entry of said injunction order a plan and timetable for the safe removal and permanent disposal of all the hazardous wastes from the facility, together with any and all contaminated soil and water at the facility, said plan to be approved by both the Illinois Environmental Protection Agency and the Office of the Attorney General;

C. Issue a permanent injunction prohibiting all Defendants and their agents from removing or causing others to remove any of the hazardous wastes from the facility until the Court approves of the plan requested in Paragraph B above and then requires compliance with said plan;

D. Enter an order taxing or assessing all costs of this proceeding against the Defendants, such costs to include, but not limited to, the reasonable and necessary expenses of any expert witness called to testify upon behalf of the Plaintiff; and

E. Grant to the Plaintiff such other and further relief as this Court may deem appropriate under the circumstances.

COUNT VII

DEFENDANTS ARE DISCHARGING
WITHOUT AN NPDES PERMIT

166-180. The Plaintiff realleges and incorporates by reference herein Paragraph 1 through 15 of Count I as Paragraphs 166 through 180 of this Count VII.

181. Section 12(f) of the Act provides in pertinent part:

"No person shall:

Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any will or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, * * *

Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1012(f)

182. None of the Defendants have ever been issued a National Pollutant Discharge Elimination System (NPDES) permit for discharges from the facility to any waters of the State, including waters to any sewage works.

183. By causing or allowing the above-described discharges to sewers without an NPDES permit the Defendants, WASTEX, NORMA CHASE, and JACK CHASE, have violated Section 12(f) of the Act.

Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1012(f).

184-187. The Plaintiff realleges and incorporates by reference herein Paragraphs 23 through 26 of Count I as Paragraphs 184-187 of this Count VII.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court grant the following relief:

A. Issue a permanent injunction against the Defendants, WASTEX, NORMA CHASE and JACK CHASE and their agents from causing or allowing any liquid discharges of any hazardous material from the facility into waters of the State including waters to any sewage works until the Defendants obtain an NPDES permit.

B. Enter an order assessing a penalty against each of the Defendants, WASTEX, NORMA CHASE, and JACK CHASE, in the amount of up to Ten Thousand Dollars (\$10,000) for the violations alleged in this Count and assess a further penalty against said Defendants in the amount of up to Ten Thousand Dollars (\$10,000) for each day on which said violation shall have continued;

C. Enter an order taxing or assessing all costs of this proceeding against the Defendants, such costs to include, but not be limited to, the reasonable and necessary expenses of any expert witness called to testify upon behalf of the Plaintiff; and

D. Grant to the Plaintiff such other and further relief as this Court may deem appropriate under the circumstances.

COUNT VIII

DEFENDANTS HAVE STORED AND WILL
CONTINUE TO STORE VOLATILE
COMBUSTIBLES IN A MANNER AS
WILL JEOPARDIZE LIFE OR PROPERTY

188. This Count is brought pursuant to authority granted the Attorney General of the State of Illinois by Section 3 of "An Act to Regulate the Storage, Transportation, Sales and Use of Gasoline and Volatile Oils". Ill.Rev.Stat., 1979, ch. 127 1/2, par. 155.

189. Section 1 of the Act referred to in Paragraph 187 provides:

It shall be unlawful for any person, firm, association or corporation to keep store, transport, sell or use any crude, petroleum, benzine, benzol, gasoline, naptha, either [sic] or other like volatile combustibles, or other compounds, in such circumstances as will jeopardize life or property.

[Emphasis added]

Ill. Rev. Stat., 1979, ch. 127 1/2, par. 153

190-204. The Plaintiff realleges and incorporates by reference herein Paragraphs 2 through 11 of Count I and 68 through 72 of Count III as Paragraphs 190 through 204 of this Count VIII.

IN THE CIRCUIT COURT
FOR THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)
)
Plaintiff,)
)
vs.) 80-CH-
)
WASTEX RESEARCH, INC., an Illinois)
corporation, NORMA CHASE, individually)
and as President of WASTEX RESEARCH,)
INC., JACK CHASE, and SOUTHWEST)
REGIONAL PORT DISTRICT, a municipal)
corporation,)
)
Defendants.)

MOTION FOR PRELIMINARY INJUNCTION

NOW COMES the Plaintiff, PEOPLE OF THE STATE OF ILLINOIS,
by TYRONE C. FAHNER, Attorney General of the State of Illinois,
and moves this court to enter a preliminary injunction against
the Defendants, WASTEX RESEARCH, INC., an Illinois corporation,
NORMA CHASE, individually and as President of WASTEX RESEARCH,
INC., JACK CHASE and the SOUTHWEST REGIONAL PORT DISTRICT, a
municipal corporation, to restrain the Defendants, their agents
and assigns and anyone over whom the Defendants' have control
from: causing or allowing any additional waste of any type to
be brought to the facility described below; causing or allowing
waste of any type to be disposed of at said facility; causing
or allowing a processing operation of any type to be conducted
at said facility; causing or allowing the removal of any type of
waste from said facility without first obtaining all necessary
permits and manifests and complying with any other requirements
of the Environmental Protection Act, Ill. Rev. Stat., 1979, ch.
111 1/2, par. 1001 et seq. (hereinafter the "Act") and regula-
tions of the Illinois Pollution Control Board and without giving
the Illinois Environmental Protection Agency (hereinafter the
"Agency") at least one day prior notice of the date and time of
such removal; and causing or allowing hazardous wastes to remain
in the soil, water or in any other material at said facility
in such a manner that said hazardous wastes have entered or
threaten to enter the ground water or sewers at said facility.

As grounds for the motion, Plaintiff states as follows:

1. Plaintiff brings this motion pursuant to the statutory authority of the Attorney General under Section 42(d) of the Act, Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1042, to file a civil action to enjoin violation of the Act, and Paragraph 12 of Chapter 14 (Attorney General and State's Attorneys) and Paragraphs 1 and 3 of Chapter 69 (Injunctions) of the Illinois Revised Statutes.

2. The Defendant, WASTEX RESEARCH, INC. (hereinafter "WASTEX"), is, and at all times pertinent to this Motion has been, a corporation organized under the laws of the State of Illinois.

3. WASTEX is, and at all times pertinent to this Motion has been qualified to do business and has been doing business in the State of Illinois.

4. The Defendant, NORMA CHASE, since at least July 10, 1980 has been the President of Wastex.

5. The Defendant, JACK CHASE, since at least April 7, 1980 has been an employee of WASTEX and has managed the facility described below in Paragraph 7.

6. The SOUTHWEST REGIONAL PORT DISTRICT (hereinafter "DISTRICT") is a municipal corporation created by the Illinois General Assembly. Ill. Rev. Stat., 1979, ch. 19, par. 451 et seq.

7. Since at least April 7, 1980 the DISTRICT has owned and WASTEX has maintained control over part of the property which was formerly used by Obear-Nester Glass, located south of East Broadway Street between 19th and 21st streets in East St. Louis, St. Clair County, Illinois (hereinafter referred to as the "facility").

8. The facility covers approximately 12 acres and consists of, among other things, several buildings, a 410,000 gallon storage tank and smaller storage tanks.

9. Since at least April 7, 1980 the Defendants, WASTEX, NORMA CHASE, and JACK CHASE, have caused and the Defendant DISTRICT

has allowed 55 gallon drums containing hazardous waste, including among other things, toluene, xylene, methyl ethyl ketone, methyl isobutyl ketone, ethyl acetate, methanol, chloroform, acetone, methylene chloride, butyl alcohol, and paint sludges, to be brought to the facility.

10. As of the filing of this Motion the Defendants, WASTEX, NORMA CHASE, and JACK CHASE, have caused and Defendant DISTRICT has allowed approximately 10,000 of the drums described above in Paragraph 9 to be brought to the facility.

11. Since at least April 7, 1980 the Defendants, WASTEX, NORMA CHASE, and JACK CHASE, have caused and Defendant DISTRICT has allowed tanker trucks containing, among other things, the hazardous wastes set forth in Paragraph 9 to bring unknown amount of these chemicals to the facility.

12. Between August 24, 1980 and the filing of this Motion the Defendants, WASTEX, NORMA CHASE, and JACK CHASE, have caused and Defendant DISTRICT has allowed the tanker trucks described in Paragraph 11 to dump said chemicals into piles of sawdust on the ground, sewers, the basements of buildings, and on the ground at the facility.

13. Between August 24, 1980 and the filing of this Motion the Defendants, WASTEX, NORMA CHASE, and JACK CHASE, have caused and Defendant DISTRICT has allowed the 55 gallon drums described in Paragraph 9 to be broken open and their contents to run out on the ground.

14. Between August 24, 1980 and the filing of this Motion some of the 55 gallon drums and storage tanks at the facility have leaked or spilled hazardous wastes onto the ground and into the sewers at the facility.

15. By the conduct described in Paragraphs 12, 13, and 14 the Defendants, WASTEX, NORMA CHASE, and JACK CHASE, are causing and Defendant DISTRICT is allowing the disposal of said hazardous wastes at the facility by allowing it to be absorbed in the ground or to enter the sewers at the facility.

16. A development permit would be required to develop a solid waste management site at the facility and Defendants, WASTEX and NORMA CHASE were issued a permit to develop a solid waste management site by the Agency on July 10, 1980.

17. None of the Defendants have ever been issued a permit by the Agency to conduct a refuse disposal operation or operate a solid waste management site at the facility except for storage.

18. The actions of the Defendants, DISTRICT, WASTEX, NORMA CHASE, and JACK CHASE, described above in this Motion will permit the vertical and lateral migration of said hazardous wastes into the ground water and sewers.

19. The vertical and lateral migration of said hazardous wastes into the waters of the State as a result of the actions of the Defendants, threatens to create a nuisance and render such waters harmful or detrimental or injurious to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

20. From August 24, 1980 until the filing of this Motion 55 gallon drums containing said hazardous wastes have been stacked in levels higher than three and others have been stored without lids.

21. Said hazardous wastes which have been brought to the facility are flammable with some having flash points as low as 0°F.

22. The leakage and dumping of some of said hazardous wastes has allowed these wastes to commingle and interact.

23. The operation of the facility by Defendants, WASTEX, NORMA CHASE, and JACK CHASE, and allowed by the DISTRICT described above threatens the discharge of toxic and noxious emissions of contaminants into the atmosphere as a result of fire or chemical interaction from the hazardous wastes existing on and in the ground, and sawdust piles.

24. The discharge into the atmosphere of contaminants described in Paragraph 23 would be of sufficient quantity and of such characteristics and duration to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property by causing emissions containing toxic metals and by causing citizens and businesses residing near the facility to cease and avoid outdoor activity, leave their homes and property and generally attempt to avoid or reduce their exposure to the aforesaid emissions.

25. Since on or about April 24, 1980 and continuing up until the filing of this Motion the Defendants, WASTEX, NORMA CHASE, and JACK CHASE, have conducted a solvent recycling operation at the facility, in that these Defendants have accepted paint solvents and other volatile organic materials, allowed the solids and heavier materials to settle in the container in which the material was stored and then drained off the top material and sold it as a fuel.

26. Organic emissions will be released as a result of the operation referred to in Paragraph 25.

27. On July 10, 1980 WASTEX and NORMA CHASE were issued a permit by the Agency to develop a solid waste management site at the facility and on July 11, 1980 WASTEX and NORMA CHASE were issued a permit by the Agency to store special wastes inside the buildings at the facility.

28. At no time have any of the Defendants, WASTEX, NORMA CHASE, and JACK CHASE, ever had a permit issued by the Illinois Environmental Protection Agency to conduct an operation as described in Paragraph 25.

29. By keeping and storing substantial quantities of these flammable hazardous wastes at the facility from at least August 24, 1980 until the filing of this Motion the Defendants, DISTRICT, WASTEX, NORMA CHASE, and JACK CHASE, because of the danger of fire, explosion and chemical reaction, has kept or stored said hazardous wastes in a manner and under circumstances

will and does jeopardize the life and property of citizens and businesses some of which are located less than one quarter mile from the facility, are in violation of Ill. Rev. Stat., 1979, ch. 127 1/2, par. 153.

30. The maintenance of the hazardous wastes at the facility and the operation of the facility in the manner described above will cause Plaintiff irreparable injury for which there is no adequate remedy at law, for once said hazardous wastes enter the waters and outside atmosphere of Illinois, substantial and irreversible damage will occur to the citizens and the environment of St. Clair affected by such pollution.

31. By the above described conduct the Defendants, WASTEX, NORMA CHASE, and JACK CHASE have caused or allowed and Defendant DISTRICT, has allowed violations of Sections 9(a), 9(b), 12(a), 12(d), 21(a), and 21(d) of the Act by causing or allowing: a threat of air pollution; the operation of a facility capable of discharging contaminants to the air without a permit; a threat of water pollution; a water pollution hazard; the open dumping of hazardous wastes and the operation of a hazardous waste dump without a permit. Ill. Rev. Stat., 1979, ch. 111 1/2, pars. 1009(a), 1009(b), 10012(a), 1012(d), 1021(a), and 1021(d).

32. By the above described conduct the Defendants, WASTEX, NORMA CHASE, and JACK CHASE have caused and the Defendant, DISTRICT, has allowed a public nuisance to exist at the facility.

33. These violations of the Act and the existence of a public nuisance at the facility in the absence of an order of this Court granting the relief prayed for herein, will continue for each day the Defendants are allowed to maintain and operate the facility in the manner described above.

34. The Defendants' violations of the statutes of the State of Illinois referred to above per se will cause irreparable injury to the Plaintiff.

35. The Plaintiff's remedy at law is per se inadequate when, such as in the instant case, a statute expressly authorizes an injunction to enforce the provisions of said statute.

36. The Plaintiff has a clear and lawful right created by statutes of the State of Illinois for which it seeks protection.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court grant the following relief:

A. Issue a preliminary injunction enjoining the Defendants, DISTRICT, WASTEX, NORMA CHASE, and JACK CHASE, and their agents, assigns and any person over whom they have control from causing or allowing open dumping and from conducting or allowing the conducting of a refuse disposal operation or solid waste management site by depositing hazardous wastes into piles of sawdust on the ground, sewers, the basements of buildings and on the ground at the facility or disposing of said hazardous wastes in any other manner at the facility;

B. Issue a preliminary injunction enjoining the Defendants, DISTRICT, WASTEX, NORMA CHASE, and JACK CHASE, and their agents, assigns and any person over whom they have control from transporting or causing or allowing others to transport any additional hazardous wastes in any form whatsoever to the facility;

C. Issue a preliminary injunction enjoining the Defendants, DISTRICT, WASTEX, NORMA CHASE, and JACK CHASE and their agents, assigns and any person over whom they have control from conducting any operations including but not limited to the recycling, processing or recovery of any wastes at the facility;

D. Issue a preliminary injunction enjoining the Defendants, DISTRICT, WASTEX, NORMA CHASE, and JACK CHASE and their agents, assigns and any person over whom they have control from removing waste material from the site without first obtaining all necessary permits and manifests and complying with any other requirements of the Act and Regulations of the Pollution Control Board and without giving the Illinois Environmental Protection Agency at least one day prior notice of the date and time of such removal.

E. Issue a preliminary injunction requiring the Defendants DISTRICT, WASTEX, NORMA CHASE, and JACK CHASE to remove all

soil, water and any other material that has been contaminated hazardous wastes from the facility within 30 days and all in accordance with Paragraph D.

F. Enter an order taxing or assessing all costs of this proceeding against the Defendants, such costs to include, but not limited to, the reasonable and necessary expenses of any expert witness called to testify upon behalf of Plaintiff; and

G. Grant to the Plaintiff such other and further relief as this Court may deem appropriate under the circumstances.

PEOPLE OF THE STATE OF ILLINIOS

BY: TYRONE C. FAHNER
ATTORNEY GENERAL

BY: _____
Patrick J. Chesley
Assistant Attorney General
Environmental Control Division
Southern Region

500 South Second Street
Springfield, IL 62706
(217) 782-9033

DATED:

and

G. Grant to the Plaintiff such other and further relief as this Court may deem appropriate under the circumstances.

PEOPLE OF THE STATE OF ILLINIOS

BY: TYRONE C. FAHNER
ATTORNEY GENERAL

BY: _____
Patrick J. Chesley
Assistant Attorney General
Environmental Control Division
Southern Region

500 South Second Street
Springfield, IL 62706
(217) 782-9033

DATED:

IN THE CIRCUIT COURT OF THE
TWENTIETH JUDICIAL CIRCUIT,
ST. CLAIR COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)
)
) Plaintiff,)
)
 vs.) 80-CH
)
 WASTEX RESEARCH, INC., an Illinois)
 corporation, TERRY HEIN, individually)
 and as past President of WASTEX)
 RESEARCH, INC., JACK CHASE, and)
 JAMES GUELBERT,)
)
 Defendants.)

COMPLAINT FOR INJUNCTION
AND OTHER RELIEF

NOW COMES Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, by
TYRONE C. FAHNER, Attorney General of the State of Illinois,
and complains of WASTEX RESEARCH, INC., an Illinois corporation,
TERRY HEIN, JACK CHASE, and JAMES GUELBERT, as follows:

COUNT I

DEFENDANTS HAVE OPERATED A LANDFILL
WITHOUT A PERMIT

1. This Count is brought by TYRONE C. FAHNER, Attorney
General of the State of Illinois, on his own motion, pursuant
to the terms and provisions of Section 42 of the Environmental
Protection Act (hereinafter the "Act"), Ill. Rev. Stat., 1979,
ch. 111 1/2, par. 1042, and at the request of the Illinois
Environmental Protection Agency (hereinafter the "Agency").

2. The Defendant, WASTEX RESEARCH, INC. (hereinafter
"WASTEX"), is, and at all times pertinent to this Complaint
has been, a corporation organized under the laws of the State
of Illinois.

3. WASTEX is, and at all times pertinent to this
Complaint has been qualified to do business and has been

COMPLAINT FOR INJUNCTION
AND OTHER RELIEF

NOW COMES Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, by TYRONE C. FAHNER, Attorney General of the State of Illinois, and complains of WASTEX RESEARCH, INC., an Illinois corporation, TERRY HEIN, JACK CHASE, and JAMES GUELBERT, as follows:

COUNT I

DEFENDANTS HAVE OPERATED A LANDFILL
WITHOUT A PERMIT

1. This Count is brought by TYRONE C. FAHNER, Attorney General of the State of Illinois, on his own motion, pursuant to the terms and provisions of Section 42 of the Environmental Protection Act (hereinafter the "Act"), Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1042, and at the request of the Illinois Environmental Protection Agency (hereinafter the "Agency").

2. The Defendant, WASTEX RESEARCH, INC. (hereinafter "WASTEX"), is, and at all times pertinent to this Complaint has been, a corporation organized under the laws of the State of Illinois.

3. WASTEX is, and at all times pertinent to this Complaint has been qualified to do business and has been doing business in the State of Illinois.

4. The Defendant, TERRY HEIN, was the President of Wastex, at all times pertinent to this Complaint.

5. The Defendant, JACK CHASE, since at least January 18, 1980 has been an employee of WASTEX and has managed the

facility described below in Paragraph 6.

6. Since at least January 18, 1980 and continuing until the filing of this Complaint JAMES GUELBERT has owned the property located at 301 South 15th Street, East St. Louis, St. Clair County, Illinois (hereinafter the "facility").

7. Since at least January 18, 1980 and continuing until the filing of this Complaint WASTEX has leased a portion of the facility including but not limited to one building from JAMES GUELBERT.

8. Prior to January 18, 1980 the Defendants caused 55-gallon drums containing hazardous wastes, including among other things methyl ethyl ketone, toluene, xylene, and acetone, to be brought to the facility and stored inside and outside the Defendant's building at the facility.

9. On January 21, 1980 the Defendants caused or allowed some of the 55-gallon drums that were brought to the facility to be crushed and their contents allowed to run out onto the ground.

10. Prior to January 23, 1980 the Defendants caused or allowed a trench to be dug at the facility.

11. Prior to January 23, 1980 the Defendants caused or allowed wastes from the crushed 55-gallon drums and from leaks from the 55-gallon drums stored outside to flow into the trench described in Paragraph 10.

12. By the conduct described above the Defendants are causing or allowing the disposal of said hazardous wastes at the facility by allowing it to be absorbed in the ground.

13. Section 21(a) and (d) of the Act provide in pertinent part:

No person shall:

(a) Cause or allow the open dumping of
any refuse;

a solid waste management site at the facility and in fact the Defendant, WASTEX, was issued an experimental permit to develop such a site but not until May 1, 1980.

18. None of the Defendants have ever been issued a permit by the Agency to conduct a refuse disposal operation or to operate a solid waste management site at the facility.

19. By the above conduct the Defendants, WASTEX, TERRY HEIN, JACK CHASE and JAMES GUELBERT, have violated Sections 21(a) and (d) of the Act, Ill. Rev. Stat., 1979, ch. 111 1/2, pars. 1021(a) and (d) and Rule 202(a) of Chapter 7.

20. The Defendants' violation of a statute of the State of Illinois per se will cause irreparable injury to the Plaintiff.

21. The Plaintiff's remedy at law is per se inadequate where, such as in the instant case, a statute expressly authorizes an injunction to enforce the provisions of said statute.

22. The Plaintiff has a clear and lawful right created by statute of the State of Illinois for which it seeks protection (Ill. Rev. Stat., 1977, ch. 111 1/2, pars. 1021(a) and (d)).

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court grant the following relief:

A. Issue a permanent injunction enjoining the Defendants, WASTEX, TERRY HEIN, JACK CHASE and JAMES GUELBERT from causing or allowing open dumping and from conducting or allowing the conducting of a refuse disposal operation or solid waste management site by the storage of hazardous waste at the facility or by the dumping of hazardous wastes on the ground at the facility.

B. Issue a permanent

TERRY HEIN, JACK CHASE and JAMES GUELBERT, have violated Sections 21(a) and (d) of the Act, Ill. Rev. Stat., 1979, ch. 111 1/2, pars. 1021(a) and (d) and Rule 202(a) of Chapter 7.

20. The Defendants' violation of a statute of the State of Illinois per se will cause irreparable injury to the Plaintiff.

21. The Plaintiff's remedy at law is per se inadequate where, such as in the instant case, a statute expressly authorizes an injunction to enforce the provisions of said statute.

22. The Plaintiff has a clear and lawful right created by statute of the State of Illinois for which it seeks protection (Ill. Rev. Stat., 1977, ch. 111 1/2, pars. 1021(a) and (d)).

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court grant the following relief:

A. Issue a permanent injunction enjoining the Defendants, WASTEX, TERRY HEIN, JACK CHASE and JAMES GUELBERT from causing or allowing open dumping and from conducting or allowing the conducting of a refuse disposal operation or solid waste management site by the storage of hazardous waste at the facility or by the dumping of hazardous wastes on the ground at the facility.

B. Issue a permanent injunction directing the Defendants, WASTEX, TERRY HEIN, JACK CHASE and JAMES GUELBERT to develop and submit to the Plaintiff within fifteen days of entry of said injunction order a plan and timetable for the safe removal of all hazardous wastes and all soil, water and other material at the facility that has been contaminated.

by said hazardous wastes and for the disposal of this material at an approved and permitted location, said plan to be approved by both the Illinois Environmental Protection Agency and the Office of the Illinois Attorney General;

C. Issue a permanent injunction prohibiting all Defendants and their agents from removing or causing others to remove any of the hazardous waste from the facility until the Court approves the plan requested in Paragraph B above;

D. Enter an order assessing a penalty against each of the Defendants, WASTEX, TERRY HEIN, and JACK CHASE, in the amount of up to Ten Thousand Dollars (\$10,000.00) for the violations alleged in this Count and assess a further penalty against said Defendants in the amount of up to One Thousand Dollars (\$1,000.00) for each day on which said violation shall have continued;

E. Enter an order taxing or assessing all costs of this proceeding against the Defendants, such costs to include, but not be limited to, the reasonable and necessary expenses of any expert witness called to testify upon behalf of the Plaintiff; and

F. Grant to the Plaintiff such other and further relief as this Court may deem appropriate under the circumstances.

COUNT II

DEFENDANTS ARE CREATING A THREAT OF WATER POLLUTION AND A WATER POLLUTION HAZARD

23-34. The Plaintiff realleges and incorporates by reference herein Paragraphs 1 through 12 of Count I as Paragraphs 23 through 34 of this Count II.

35. The actions of the Defendants described above in

the Court approves the plan requested in Paragraph B above;

D. Enter an order assessing a penalty against each of the Defendants, WASTEX, TERRY HEIN, and JACK CHASE, in the amount of up to Ten Thousand Dollars (\$10,000.00) for the violations alleged in this Count and assess a further penalty against said Defendants in the amount of up to One Thousand Dollars (\$1,000.00) for each day on which said violation shall have continued;

E. Enter an order taxing or assessing all costs of this proceeding against the Defendants, such costs to include, but not be limited to, the reasonable and necessary expenses of any expert witness called to testify upon behalf of the Plaintiff; and

F. Grant to the Plaintiff such other and further relief as this Court may deem appropriate under the circumstances.

COUNT II

DEFENDANTS ARE CREATING A THREAT OF WATER POLLUTION AND A WATER POLLUTION HAZARD

23-34. The Plaintiff realleges and incorporates by reference herein Paragraphs 1 through 12 of Count I as Paragraphs 23 through 34 of this Count II.

35. The actions of the Defendants described above in this Count II will permit the vertical and lateral migration of said hazardous wastes into the ground water.

36. The ground water referred to in Paragraph 35 is "waters" of the State within the meaning of Section 3(ii) of the Act. Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1003(ii).

37. Said hazardous wastes are "contaminants" within

the definition of that term found in Section 3(d) of the Act. Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1003(d).

38. The vertical and lateral migration of said hazardous wastes into the waters of the State as a result of the actions of the Defendants, threatens to create a nuisance and render such waters harmful or detrimental or injurious to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

39. Section 3(hh) of the Act defines Water Pollution as:

such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1003(hh).

40. Section 12 of the Act provides in pertinent part:

No person shall:

a) Cause or threaten to allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act;

d) Deposit any contaminants upon the land in such a place and manner so as to create a water pollution

domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

39. Section 3(hh) of the Act defines Water Pollution as:

such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1003(hh).

40. Section 12 of the Act provides in pertinent part:

No person shall:

- a) Cause or threaten to allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act;
- d) Deposit any contaminants upon the land in such a place and manner so as to create a water pollution hazard;

Ill. Rev. Stat., 1979, ch. 111 1/2, par.s 1012(a) and (d).

41. By the above conduct the Defendants, WASTEX, TERRY HEIN, JACK CHASE and JAMES GUELBERT have threatened to cause water pollution in violation of Section 12(a)

of the Act, Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1012(a) and have created a water pollution hazard in violation of Section 12(d), Ill. Rev. Stat., 1979, ch. 111 1/2, par. 1012(d).

42. The continued presence of said hazardous wastes in the soil and water at the facility will continue to pose a threat of water pollution and a water pollution hazard until removed.

43-45. The Plaintiff realleges and incorporates by reference herein Paragraphs 20 through 22 of Count I as Paragraphs 43 through 45 of this Count II.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court grant the following relief:

A. Issue a permanent injunction enjoining the Defendants, WASTEX, TERRY HEIN, JACK CHASE, and JAMES GUELBERT, and their agents from transporting or causing or allowing others to transport any additional hazardous wastes in any form whatsoever to the facility;

B. Issue a permanent injunction directing the Defendants, WASTEX, TERRY HEIN, JACK CHASE, and JAMES GUELBERT, to develop and submit to the Plaintiff within 15 days of entry of said injunction order a plan and timetable for the safe removal and permanent disposal of all the hazardous wastes from the facility, together with any and all contaminated soil and water at the facility, said plan to be approved by both the Illinois Environmental Protection Agency and the Office of the Attorney General;

C. Issue a permanent injunction prohibiting all Defendants and their agents from removing or causing others to remove any of the hazardous wastes from the facility until the Court approves of the plan requested in Paragraph

until removed.

43-45. The Plaintiff realleges and incorporates by reference herein Paragraphs 20 through 22 of Count I as Paragraphs 43 through 45 of this Count II.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court grant the following relief:

A. Issue a permanent injunction enjoining the Defendants, WASTEX, TERRY HEIN, JACK CHASE, and JAMES GUELBERT, and their agents from transporting or causing or allowing others to transport any additional hazardous wastes in any form whatsoever to the facility;

B. Issue a permanent injunction directing the Defendants, WASTEX, TERRY HEIN, JACK CHASE, and JAMES GUELBERT, to develop and submit to the Plaintiff within 15 days of entry of said injunction order a plan and timetable for the safe removal and permanent disposal of all the hazardous wastes from the facility, together with any and all contaminated soil and water at the facility, said plan to be approved by both the Illinois Environmental Protection Agency and the Office of the Attorney General;

C. Issue a permanent injunction prohibiting all Defendants and their agents from removing or causing others to remove any of the hazardous wastes from the facility until the Court approves of the plan requested in Paragraph B above;

D. Enter an order assessing a penalty against each of the Defendants, WASTEX, TERRY HEIN, and JACK CHASE, in the amount of up to Ten Thousand Dollars (\$10,000.00) for the violations alleged in this Count and assess a further penalty against said Defendants in the amount of up


2 Thousand Dollars (\$1,000.00) for each day on which
aid violation shall have continued;

E. Enter an order taxing or assessing all costs
of this proceeding against the Defendants, such costs to
include, but not limited to, the reasonable and necessary
expenses of any expert witness called to testify upon
behalf of the Plaintiff; and

F. Grant to the Plaintiff such other and further
relief as this Court may deem appropriate under the
circumstances.

PEOPLE OF THE STATE OF ILLINOIS
and ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

BY


TYRONE C. FAHNER
Attorney General
State of Illinois

OF COUNSEL:

Patrick J. Chesley
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
Telephone: (217) 782-1090